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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,007	01/25/2001	Shinji Aoki	4041J-000360	5201

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EXAMINER
FORD, JOHN K

ART UNIT	PAPER NUMBER
3743	6

DATE MAILED: 09/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/770,007	Applicant(s) Aoki et al.
	Examiner FORD	Art Unit 3743

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☑ Responsive to communication(s) filed on 5/9/03

2a)☐ This action is FINAL. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☑ Claim(s) 1-36 is/are pending in the application.

4a) Of the above claim(s) 28-36 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☑ Claims 1-27 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other:

Applicant's election of the species of Figures 1 –10b (first species), without traverse, is acknowledged. Applicant has identified claims 1-27 to read on the elected species. Accordingly, claims 28-36 are withdrawn from consideration at this time. In re-reading claims 1 and 15, the Examiner has noticed that there appear to be two distinct species of computation claimed, however the specification is unclear. The Examiner regrets that he did not notice the discrepancy earlier.

Two distinct species of computation of "seat target air temperature" are claimed. In claim 1, the "seat control value" is "calculated based on the space target air temperature". In claim 15 the "seat target air temperature" is calculated based on the "detected value" of the thermal load of the vehicle. These appear to be two distinct species of calculation neither of which seems to correspond to what is disclosed on page 22, lines 8-20. That disclosure states that TAO seat is calculated on the basis of the space target air temperature TAO by using formula (2). Apparently, formula (2) doesn't have anything to do with computing TAO seat. It appears that the crux of computing TAO seat is disclosed on page 22, lines 11-20, but that isn't what is claimed in either claim 1 or claim 15. Please explain how claim 1 and 15 read on the elected species or elect between them. In the event an election is made, please explain how the elected species is supported by the portion of the specification pertaining to the

elected embodiment of Figure 1-10b. The Examiner is confused at this point and a proper search of the prior art cannot be performed until this issue is resolved.

This application contains claims directed to the following patentably distinct species of the claimed invention:

first species of seat control wherein the seat air conditioning unit is controlled in accordance with a seat control value calculated based on the space target air temperature and

second species of seat control wherein the seat control value is determined based on the detection value [of the thermal load of the vehicle] by calculating a seat target air temperature to be blown into the seat.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, neither claim 1 nor claim 15 appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include

all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication should be directed to John Ford at telephone number 703-308-2636.

John K. Ford
Primary Examiner